



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd Floor, Cranston, RI 02920
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Date: April 16, 2015

Date of Hearing: 4/15/15
Docket # 15-535

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency Rules and Regulations(s) were the matters before the hearing:

THE DHS POLICY MANUAL: Rhode Island Works Program
SECTION: 1430.05 Recovery of Overpayments

The facts of your case, the Agency Rules and Regulations, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant) and Agency representatives: Janet Surprenant and Christine Messier.

Present at the hearing were: You, your spouse, and the Laotian interpreter and Agency representative: Janet Surprenant.

ISSUE: Should the appellant have to repay benefits that she was not eligible for in March 2014?

DHS RULES AND REGULATIONS: Please see the attached APPENDIX for pertinent excerpts from the Department of Human Services Rules and Regulations.

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- The appellant's spouse started working on February 12, 2014.
- The appellant did not present proof of job income until March fifth and March thirteenth.
- The Agency entered the information and sent a closing notice dated March 13, 2014.
- The Agency did not receive verification in time to stop full March payment.
- The appellant was overpaid in the month of March 2014 by \$317.00.
- The Agency sent a notice on January 16, 2015 requesting the repayment of the \$317.00.
- This over-payment was not the appellant's fault.

The Appellant with the aid of the Laotian interpreter testified:

- She did send in the pay-stubs.
- Her spouse did start working in February 2014.
- She brought in one stub on March 5, 2014.
- She brought in second paystubs as soon as she could.
- The Agency always says they did not receive things.
- They did spend all benefits on the card.
- They thought they could.
- They should not have to pay for something that is not their fault.
- They will set up a payment plan.

FINDINGS OF FACT:

- The appellant's spouse did begin working in February 2014.
- The Agency did receive a paystub on March 5, 2014, which they entered.
- The Agency did receive more paystubs on March 13, 2014.

- The Agency did send the appellant a written closing notice on March 13 2014.
- The Agency sent a written request for repayment on January 16, 2015.
- The appellant requested a timely appeal received by the Agency February 19, 2015.
- The hearing was held on April 15, 2015.

CONCLUSION:

The issue to be decided is whether the appellant has to repay a \$ 317.00 received over payment in March 2014.

A review of Agency Rules and Regulations reveals that an overpayment is defined as a cash benefit issued to or for an assistance unit for a payment month in an amount exceeding the amount for which that unit was eligible.

An overpayment may result from either an agency or a client error.

To determine the net overpayment amount, the gross overpayment must be reduced by the amount of any child support collected and retained by the Department of Human Services, Office of Child Support Services over and above the payment the recipient should have received.

In this case the appellant testified that her spouse began working on February 12, 2014. On March 5, 2014 she brought in a paystub. On March 13, 2014 she brought in more paystubs.

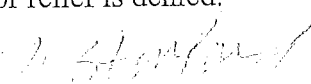
The Agency representative testified that they did receive the first stub on March 5 and the rest of them on March 13, 2014. The Agency sent a closing notice on March 13, 2014. It was too late in the month of March to stop the second amount of \$317.00 from going onto the appellant's EBT card. The closing notice indicated that they were now over income for Cash Assistance.

The appellant argued that she should not have to pay the money back if it was not her fault.

Further review of Agency Rules and Regulations reveals that DHS must initiate collection action against the household on all client or Agency error claim referrals unless the claim is collected through offset, or one of the following conditions applies:

The amount of the claim referral is less than thirty-five dollars (\$35), and the claim cannot be recovered by reducing the household's allotment or the agency has documentation which shows that the household cannot be located.

After careful review of Agency Policy and the evidence and testimony given, this Appeals Officer finds that the appellant was over paid in March 2014 by \$317.00; therefore her request for relief is denied.



Geralyn B. Stanford
Appeals Office

APPENDIX

1430.05 Recovery of Overpayments

REV:03/2012

1. An overpayment is defined as a cash benefit issued to or for an assistance unit for a payment month in an amount exceeding the amount for which that unit was eligible.
 - a. An overpayment may result from either an agency or a client error.
 - b. To determine the net overpayment amount, the gross overpayment must be reduced by the amount of any child support collected and retained by the Department of Human Services, Office of Child Support Services (DHS-OCSS), over and above the payment the recipient should have received (see Section 1424).
2. DHS must initiate collection action against the household on all client or agency error claim referrals unless the claim is collected through offset, or one of the following conditions applies:
 - a. The amount of the claim referral is less than thirty-five dollars (\$35), and the claim cannot be recovered by reducing the household's allotment. This threshold does NOT apply for overpayments discovered through the Quality Control System.
 - b. The agency has documentation which shows that the household cannot be located.
3. In cases involving an underpayment which has not yet been restored and an overpayment in the same month;
 - a. The agency representative must factor in both in determining what the correct payment should have been;
 - b. The amount of the under-issuance must be used to offset the claim;
 - c. If an overpayment still exists, the referral is made to the Collections, Claims and Recoveries/Fraud Unit (CCRU) to institute collection for the remaining balance;
 - d. When there is any restoration of lost benefits which is used to offset an established claim, the balance of the claim is reduced by the amount of the offset through the eligibility system.
 - e. CCRU will initiate underissuance payments identified while researching a claim for overpayment. CCRU will notify the appropriate staff to approve the deficit payment through the eligibility system.
4. Recovery of overpayments from current or former recipients is required regardless of when the overpayment occurred.
5. All actions pertaining to the collection of outstanding claims in the TANF Program are handled by the Collections, Claims and Recoveries/Fraud (CCR/Fraud) Unit of the Department of Human Services, located at the Providence Regional Family Center (refer to www.DHS.ri.gov for contact information).

b. Agency Error

An agency error is any overpayment caused by the agency's action or failure to take action. Overpayments caused by agency error are considered non-fraud. Instances of agency error which may result in a claim include, but are not limited to, the following:

- The agency failed to take prompt action on a change reported by the household;
- The agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment resulting in an incorrect benefit; or
- The agency continued to provide a household benefits after its certification period had expired without benefit of a reapplication determination.

c. Client Error

Overpayments caused by, but not limited to, the following household errors are considered non-fraud (inadvertent):

- A payment was issued pending a fair hearing decision adverse to the recipient;
- A payment was issued solely due to ten (10) day notice requirements even though the recipient was ineligible for the assistance; or
- An overpayment resulting from a misunderstanding or unintended error on the part of the household.

1430.15 Establishing Claims Against Households

REV: 03/2012

3. Instances of errors which may result in a collection include, but are not limited to, the following:

- a. The household unintentionally failed to provide the agency with correct or complete information;
- b. The household unintentionally failed to report to the agency changes in its household circumstances; or
- c. The household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

4. The following individuals are responsible for paying a claim:

- a. Each person who was an adult member of the household when the overpayment occurred.
 - i. If a change in household composition occurs, the agency may pursue collection action against any household which has a member who was an adult member of the household that received the overissuance;

- ii. DHS may also offset the amount of the claim against restored benefits owed to any household which contains a member who was an adult member of the original household at the time the overissuance occurred;
- b. A sponsor of a non-citizen household member if the sponsor was at fault; or
- c. A person connected to the household, such as an authorized representative, who actually caused the overpayment.

1430.15.05 Determining Initial Month of Over-issuance

REV: 03/2012

- iv. In all cases involving inadvertent household error or agency error claims, the first month of overissuance is the month the change would have been effective had it been reported in a timely manner with allowance for the adverse action timeframes. In no instance, however, is the first month of overissuance any later than two (2) months from the month in which the change in household circumstances occurred. The agency representative determines the initial month of overissuance as follows:
 - Failure to Report Change Within Ten (10) Days
If the household failed to report a change in its circumstances within ten (10) days of the date the change became known to the household, the first month affected by the household's failure to report is the first month the change would have been effective had it been reported in a timely manner.
 - Change Reported Timely
 - When a household reports the change on time, but the agency representative does not act on the change in a timely manner, the first claim month is still the first month the change would have been effective.
 - If the Notice of Action was required but not sent, the agency representative assumes, for the purpose of calculating the claim, that the maximum advance notice period would have expired without the household requesting a hearing.
 - Benefits Issued Pending Hearing Decision
If a household requests the continuation of benefits pending a fair hearing decision, and receives an overissuance because its position is not sustained by the hearing decision, the first month of overissuance is the month that the change would have been effective had the household not asked for the continuation of benefit

1430.15.10

Calculation of the Claim Referral

REV: 03/2012

- * The field representative determines the correct amount of benefits the household should have received for those months the household participated while the overissuance was in effect.
- * The agency representative determines that amount for active cases as follows:
 - The correct information is entered in the appropriate months in STAT to reflect the actual income, resources, or household circumstances during the period of the overpayment;
 - The retroactive eligibility is approved for the month(s) affected;
 - The circumstances pertaining to the overissuance is recorded in the Case Log (CLOG); and
 - SPEC/COLL in the eligibility system is utilized to refer the overpayment to the CCR/Fraud Unit as follows:
 - Code the panel with the reason and type of claim for the overpayment;
 - * Enter the time period of the overpayment;
 - * Enter the amount of the overpayment; and
 - * Enter a reference to the above-mentioned CLOG entry in the free-form text Comments section.
- c. The actual steps for calculating a claim are:
 1. Determine the correct amount of benefits for each month that a household received an overpayment.
 2. Do NOT apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim. The earned income deductions are applied to agency errors.
 3. Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.
 4. The CCRU reduces the overpayment amount by any benefits expunged from the household's benefit account. The difference is the amount of the claim.
- D. The CCR/Fraud Unit then reviews each claim for accuracy and supporting documentation and institutes appropriate collection action. Before initiating collection action, the CCR Unit verifies, as appropriate, that the TANF benefits were utilized. If the benefits were utilized, collection action is initiated. The CCR/Fraud agency representative completes the AP-68W and as appropriate reviews the FSUM function of the eligibility system IV-D Child Support Menu to:

1. Determine whether DHS-OCSS retained any child support during the month(s) of overpayment;
2. Complete columns E through G of the AP-68W;
3. Enter the amount of any support retained in any overpaid month, in column E;
4. Enter the amount of retained support over and above the cash assistance payment the recipient should have received in column F and subtract from the gross overpayment to yield the net overpayment to be recovered from the recipient; and
5. If there is a net over collection to be refunded to the recipient, the refund can only be authorized and issued by the DHS-OCSS.

1430.15.15 Reasonable Effort to Pursue Recovery

REV: 03/2012

- A. If the amount of the overpayment is more than thirty-five dollars (\$35) and owed by a former recipient (Section 1430.10.15) in a non- fraud case, the Collections, Claims and Recoveries/Fraud (CCR/Fraud) Unit determines by a reasonable effort if it is cost effective to pursue recovery efforts.
 1. "Reasonable effort" requires minimally that a repayment request be sent to the former recipient.
If s/he fails to respond, CCR/Fraud must consider if the cost of collecting the overpayment is likely to equal or exceed the amount of the overpayment, and what degree of effort is within the bounds of cost effectiveness.
3. If a former recipient subsequently becomes active
within three (3) years, recovery is initiated regardless of the overpayment amount.
- B. Every effort must be made to recover any overpayment amount in cases of court-determined fraud. The agency must take all reasonable steps necessary to promptly correct any overpayment.
- C. Prompt recovery of an overpayment means the agency representative must initiate action by the end of the quarter following the quarter in which the overpayment is first identified to recover the overpayment from an active recipient.
- D. In closed cases, the CCR/Fraud must initiate action to locate a former recipient and/or recover the overpayment from him/her.

- E. Mandatory recovery of overpayments includes an overpayment resulting from assistance paid pending a hearing decision where the recipient receives an adverse hearing decision. Only the portion of cash assistance paid relating to the disputed issue is recoverable.

1430.15.20 Individual/Assistance Unit Responsibility

EFF: 03/2012

- A. Any recovery of an overpayment to a current assistance unit must be made through repayment (in part or in full) by the following:
 1. Through the individual recipient responsible for the overpayment;
 2. by reducing the benefit amount of assistance payable to the assistance unit of which s/he is a member;
 3. or both.
- B. If recovery is not possible from the individual responsible, the CCR/Fraud representative determines whether to recover from:
 1. Any assistance unit which has a member who was an adult member of the assistance unit that received the overpayment (was age eighteen (18) or older - excluding minor heads of households); or
 2. Any individual members of the overpaid assistance unit, who were adults at the time the unit received the overpayment, whether or not current recipients.

1430.25.05 Methods of Recovery

REV: 03/2012

- A. The recovery methods specified are predicated on the existence of a net overpayment to be recovered as described below.
 1. Grant Reduction

The agency recovers any overpayment from current recipients, who were adults at the time of the overpayment, by grant reduction unless the agency first accepts either total or partial recovery, with any balance owed repaid through grant reduction. Any initial repayment made in a local office by the recipient must be forwarded to:
 DHS Financial Management
 LP Building, 3rd Floor

600 New London Ave.,
Cranston, RI 02920

The recipient is given a receipt, and advised that the remainder of the overpayment will be recovered by grant reduction.

2. Recovery Rate

The grant reduction recovery rate for all active cases is ten percent (10%) of the monthly standard of assistance or up to the amount of the payment if it is less than the standard of assistance.

3. Direct Repayment

Former recipients and recipients who receive no payment because the deficit is less than the ten dollar (\$10) minimum payment make repayments directly to the CCR/Fraud Unit from their income or resources.

4. Setoff of State Personal Income Tax Refund

Pursuant to RIGL 44-30.1, DHS may recover overpayment of cash assistance benefits through setoff of the individual's state personal income tax refund.

1430.30.05 Repayment Agreement

REV: 03/2012

A. Repayment agreements must be initiated by the CCR/Fraud Unit for all cash assistance overpayments whether or not the household is currently participating in the TANF program.

B. The CCR/Fraud Unit representative completes two (2) copies of the signed Repayment Agreement (AP-68) between the agency and individual responsible:

1. One copy is retained by CCR/Fraud;
2. One copy is given to the recipient.

C. The Repayment Agreement (AP-68) states that an overpayment exists in a specified amount, for a specified period, and the agreed upon repayment arrangements. Repayment may be made by:

1. Total lump sum
2. Partial lump sum followed by a repayment schedule
3. Repayment schedule without an initial payment
4. 10% auto-reduction of current TANF grant

D. If the household is not actively participating in the TANF program, the household must be informed that it may elect to repay the entire amount of the claim in cash, check, or money order all at once, or repay part of the claim, and then repay the rest in weekly or monthly installments. If no initial partial payment can be made, a repayment schedule may be requested and developed for the entire overpayment amount.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.